

Senate Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 80

SENATE BILL 1174

AN ACT

AMENDING SECTIONS 8-135, 8-550.01, 12-113, 12-135, 12-284, 12-305, 33-502, 36-3002, 38-233, 38-810 AND 41-126, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 1, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-178; AMENDING SECTIONS 41-312, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-314; AMENDING SECTIONS 41-315, 41-317, 41-322 AND 41-330, ARIZONA REVISED STATUTES; REPEALING SECTION 41-332, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2402, ARIZONA REVISED STATUTES; RELATING TO NOTARY PUBLIC REGISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-135, Arizona Revised Statutes, is amended to
3 read:

4 8-135. Confidential intermediary and fiduciary fund

5 A. The confidential intermediary and fiduciary fund is established
6 consisting of the monies received pursuant to section 12-284.03, subsection
7 A, paragraph 8, SECTION 14-5651, SUBSECTION A, section 36-341, subsection B,
8 ~~section 14-5651, subsection A AND SECTION 41-178~~, legislative appropriations,
9 donations, fees, grants and contracts to implement the confidential
10 intermediary program established by section 8-134 and the sibling information
11 exchange program established pursuant to section 8-543 and to perform the
12 duties related to fiduciaries pursuant to section 14-5651. The supreme court
13 shall administer the fund subject to legislative appropriation. On notice
14 from the supreme court, the state treasurer shall invest and divest monies in
15 the fund as provided by section 35-313, and monies earned from investment
16 shall be credited to the fund. The fund is exempt from the provisions of
17 section 35-190 relating to lapsing of appropriations.

18 B. The appropriated funds shall only be used for the designated
19 purposes specified in statute.

20 Sec. 2. Section 8-550.01, Arizona Revised Statutes, is amended to
21 read:

22 8-550.01. Child abuse prevention fund; purpose; definition

23 A. ~~Until December 31, 1997, the child abuse prevention fund is~~
24 ~~established consisting of monies received pursuant to section 12-284, section~~
25 ~~25-311.01, subsection E, section 36-3504, subsection C and section 43-613.~~
26 Beginning on January 1, 1998, the child abuse prevention fund is established
27 consisting of monies received pursuant to section 12-284.03, SUBSECTION A,
28 paragraph 3, section 36-3504, subsection C, SECTIONS 41-178 and ~~section~~
29 ~~43-613~~. The director shall administer the fund for the purposes prescribed
30 in this article.

31 B. Subject to legislative appropriation, the director shall expend
32 monies in the fund to provide financial assistance to community child abuse
33 and neglect prevention programs and family resource programs that, in the
34 judgment of the director, offer prevention services and family resource
35 programs to children and their parents or guardians and that comply with
36 departmental accounting and auditing rules for the receipt of public monies.

37 C. Subject to legislative appropriation, the director may expend not
38 more than five per cent of the monies in the fund for administrative expenses
39 related to the fund.

40 D. The appropriated funds shall only be used for the designated
41 purposes specified in statute.

42 E. Monies in the fund do not revert to the state general fund.

43 F. For the purposes of this section, "family resource program" means a
44 program that offers community-based services that provide sustained
45 assistance and support to a family at various stages in its development and

1 that promotes parental competence and behavior that will lead to the healthy
2 and positive personal development of parents and children through:

3 1. Assistance to build family skills and assist parents in improving
4 their capacity to be supportive and nurturing.

5 2. Assistance to enable a family to use other formal and informal
6 resources and opportunities for assistance that are available within the
7 family's community.

8 3. Supportive networks to enhance the child rearing capacity of
9 parents and to assist in compensating for the increased social isolation and
10 vulnerability of a family.

11 Sec. 3. Section 12-113, Arizona Revised Statutes, is amended to read:

12 12-113. Judicial collection enhancement fund; purpose;
13 administration; report; definition

14 A. A judicial collection enhancement fund is established consisting of
15 monies received from:

16 1. The time payment fee established in section 12-116.

17 2. The surcharge paid by a person attending a court ordered diversion
18 program pursuant to section 12-114.

19 3. Monies deposited in the fund pursuant to section 12-114.01, section
20 12-119.01, subsection B, paragraph 1, section 12-120.31, subsection D,
21 paragraph 1, section 12-284.03, subsection A, paragraph 7, section 22-281,
22 subsection C, paragraph 1, and section 22-404, subsection C, paragraph 1 AND
23 SECTION 41-178.

24 4. Electronic filing and access fees collected pursuant to sections
25 12-119.02 and 12-120.31.

26 B. Courts wishing to receive monies from the judicial collection
27 enhancement fund shall submit a plan to the supreme court. Subject to
28 legislative appropriation, the fund monies shall be used according to plans
29 approved by the supreme court to train court personnel, improve, maintain and
30 enhance the ability to collect and manage monies assessed or received by the
31 courts, including restitution, child support, fines and civil penalties, to
32 improve court automation, to improve case processing or the administration of
33 justice and for probation services.

34 C. The supreme court shall administer the fund and may expend monies
35 in the fund, subject to legislative appropriation, for local, regional or
36 statewide projects. The supreme court may directly provide or contract for
37 services consistent with the purposes of the fund. Monies from the fund
38 shall supplement monies already provided to local courts for purposes
39 consistent with the purposes of the fund.

40 D. By January 8 of each year, the supreme court shall report to the
41 governor and the legislature, for the prior fiscal year, the total monies
42 collected, the amount spent and for what purposes, including an exact
43 explanation of funds defined as administration of the fund, the amount
44 remaining in the fund and the number of employees who are paid from the fund

1 and their job descriptions. The report shall also detail the progress made
2 in improving the ability of the courts to collect monies.

3 E. On notice from the supreme court, the state treasurer shall invest
4 and divest monies in the fund as provided by section 35-313, and monies
5 earned from investment shall be credited to the fund.

6 F. After the court determines the amount due, the court shall transmit
7 to the county treasurer each month the fees collected pursuant to section
8 12-116, except that municipal courts shall transmit to the city treasurer
9 each month the fees so collected.

10 G. The county or city treasurer shall transmit to the state treasurer
11 on or before the fifteenth day of each month the fees collected pursuant to
12 subsection F of this section for deposit in the judicial collection
13 enhancement fund.

14 H. For the purposes of this article, "court authorized diversion
15 program" means a program in which an individual who is charged with a civil
16 or criminal traffic offense or any other criminal offense is not prosecuted
17 for the offense on the successful completion of an authorized diversion
18 program. Successful completion of a defensive driving school program
19 resulting in dismissal of a civil or criminal traffic offense is considered a
20 court authorized diversion program under this section.

21 Sec. 4. Section 12-135, Arizona Revised Statutes, is amended to read:

22 12-135. Alternative dispute resolution fund

23 A. The alternative dispute resolution fund is established consisting
24 of monies deposited in the fund pursuant to section 12-284.03, subsection A,
25 paragraph 5, and section 22-281, subsection C, paragraph 2 AND SECTION
26 41-178.

27 B. Courts wishing to participate in the alternative dispute resolution
28 program may apply to the supreme court for funding. The supreme court shall
29 administer the fund and may expend monies in the fund for local, regional or
30 statewide projects that establish, maintain, improve or enhance alternative
31 dispute resolution programs.

32 C. On notice from the supreme court, the state treasurer shall invest
33 and divest monies in the alternative dispute resolution fund as provided by
34 section 35-313, and monies earned from investment shall be credited to the
35 fund.

36 D. Monies from the alternative dispute resolution fund that are
37 provided to local courts shall be used to supplement, not supplant, local
38 funding that would otherwise be made available for alternative dispute
39 resolution programs.

40 E. The supreme court shall use monies that are deposited in the fund
41 pursuant to section 12-284.03, subsection A, paragraph 5 to implement,
42 administer and fund alternative dispute resolution programs for the superior
43 court in the counties that apply for funding.

44 F. The supreme court shall use monies that are deposited in the fund
45 pursuant to section 22-281, subsection C, paragraph 2 to implement,

1 administer and fund alternative dispute resolution programs for justice
2 courts that apply for funding.

3 G. Monies in the fund are exempt from the provisions of section 35-190
4 relating to lapsing of appropriations.

5 Sec. 5. Section 12-284, Arizona Revised Statutes, is amended to read:
6 12-284. Fees

7 A. Except as otherwise provided by law, the clerk of the superior
8 court shall receive fees classified as follows:

9	Class	Description	Fee
10	A	Initial case filing fee	
11		Tax case	\$115.00
12		Filing complaint or petition	115.00
13		Filing intervenor	115.00
14		Additional plaintiffs	115.00
15		Filing foreign judgment	115.00
16		Ownership of real property becomes an issue plaintiff	115.00
17		Appellant	
18		(except under sections 12-1809 and 13-3602)	115.00
19		Change of venue to this county	115.00
20		Petition for change of name	115.00
21		Filing a process server application	115.00
22	B	Subsequent case filing fee	
23		Filing answer or initial appearance	\$ 61.00
24		Additional defendants	61.00
25		Notice of appeal to appellate courts	
26		(except under section 12-2107)	61.00
27		Cross-appeal by appellee (except under section 12-2107)	61.00
28		Ownership of real property becomes an issue defendant	61.00
29		Jurisdiction exceeded appellee	
30		(within 20 days of filing)	61.00
31		Response to show cause that does one or more	
32		of the following:	
33		1. Requests affirmative relief or	
34		counterrelief	
35		2. Attacks the sufficiency of process or the	
36		proceedings	
37		3. Takes other affirmative action	61.00
38	C	Initial case filing fee	
39		Filing petition for annulment	\$ 91.00
40		Filing for dissolution/legal separation petition	91.00
41		Petition in formal testacy or appointment	
42		proceeding	91.00
43		Application for informal probate or informal	
44		appointment	91.00

1	Petition for supervised administration petition	
2	to appoint guardian	91.00
3	Petition to appoint conservator or make other	
4	protective order	91.00
5	Opposing petition in testacy or appointment	
6	proceedings or appointment of guardian or	
7	conservator	91.00
8	Single estate application or petition under	
9	title 14, chapter 3, section 14-3938	91.00
10	Domestic relations case for which a fee is not	
11	specifically prescribed	91.00
12	D Subsequent case filing fee	
13	Filing answer to annulment	\$ 46.00
14	Filing for dissolution/legal separation answer	46.00
15	Any person opposing contested petition if no	
16	prior payment made	46.00
17	Postadjudication petitions in	
18	domestic relations cases	46.00
19	Postjudgment activities in probate cases	46.00
20	E Minimum clerk fee	
21	Filing power of attorney	\$ 18.00
22	Change of venue to another county transmittal	
23	fee	18.00
24	Change of venue to another county pursuant to	
25	section 12-404 transmittal fee	18.00
26	Filing transcript and docketing judgment from	
27	any courts	18.00
28	Issuance of writs of: attachment, execution,	
29	possession, restitution, prohibition and	
30	enforcement of order of judgment-garnishment	18.00
31	Certified copy or abstract of marriage	
32	application or license	18.00
33	Filing oath and bond of notary public	18.00
34	Certificate of correctness of copy of record	18.00
35	Justice of peace certificate	18.00
36	Notary public certificate	18.00
37	Each certificate of clerk to any matter in	
38	clerk's record not specifically provided	18.00
39	Filing any paper or performing any act for which	
40	a fee is not specifically prescribed	18.00
41	Subpoena - (civil)	18.00
42	Research in locating a document (per year or	
43	source researched)	18.00
44	Exemplification (per certification)	18.00
45	Authentication (per certification)	18.00

1	Seal a court file	18.00
2	Reopen a sealed court file	18.00
3	Retrieve bank records	18.00
4	Reel of film alpha index per year (plus per page	
5	fee below)	18.00
6	Payment history report	18.00
7	Certification under one document certification	18.00
8	Civil traffic appeal	18.00
9	F Per page fee	
10	Making copies (on appeal and on request)	
11	per page	\$.50
12	Making extra copies per page	.50
13	Making photographic or photostatic copies	
14	per page	.50
15	Comparison fee of papers furnished by applicant	
16	per page	.50
17	Alpha index per page	.50
18	G Special fees	
19	Small claim tax case	\$ 15.00
20	Marriage license and return of a	
21	marriage license	50.00
22	Postage and handling	5.00
23	Notary services	5.00
24	Stop payment on check	10.00

25 B. The clerk of the superior court shall receive the fees prescribed
26 in subsection A of this section for the following services:

27 1. Making copies of papers and records required to be made by the
28 clerk on appeal, and copies of papers and records in the clerk's office made
29 on request in other cases, for each legal size page of original.

30 2. Making extra copies of the papers and records mentioned in
31 paragraph 1 of this subsection, required or requested for each page of copy
32 of such papers and records.

33 3. In a clerk's office, in which a photographic or photostatic method
34 of recording is used or is available for use in cooperation with other public
35 offices, preparing copies enumerated in paragraphs 1 and 2 of this subsection
36 for each page of copy or fraction of a page of copy. Portions of several
37 pages of records may be combined in one page of copy. The clerk may prepare
38 an abstract of marriage in lieu of a reproduction of the recorded marriage
39 license. The fee shall apply to matters whether recorded in such office by
40 longhand, typing, electronic, photographic or photostatic methods. The fees
41 for copies are exclusive of the fees for certification or authentication.

42 4. Issuing a certificate as to official capacity of a ~~notary public or~~
43 justice of the peace and affixing a seal to the certificate.

44 5. Each subpoena issued in a civil proceeding or filing any paper or
45 performing any act for which a fee is not specifically prescribed by law, but

1 the clerk shall not charge for the clerk's services in administering the oath
2 in connection with any affidavit, petition, letters or other pleading or
3 document which, after administration of the oath therefor, is promptly filed
4 by the clerk and becomes a part of a case or matter of record in the office
5 of the clerk.

6 C. In addition to the fees required by subsection A of this section,
7 the clerk shall charge and collect a surcharge of fifteen dollars for each
8 filing of a postadjudication petition in a domestic relations case for which
9 a fee presently is charged under class D in subsection A of this
10 section. The surcharge shall be used exclusively to fund domestic relations
11 education and mediation programs established pursuant to section
12 25-413. Each month the clerk shall transmit the monies the clerk collects
13 pursuant to this subsection to the county treasurer for deposit in the
14 domestic relations education and mediation fund established by section
15 25-413.

16 D. Excluding the monies that are collected pursuant to subsection C of
17 this section, each month the clerk shall transmit seventy-five per cent of
18 the monies collected for subsequent case filing fees for postadjudication
19 petitions in domestic relations cases under class D in subsection A of this
20 section to the county treasurer for deposit in the expedited child support
21 and parenting time fund established pursuant to section 25-412. The
22 remaining twenty-five per cent of the monies collected pursuant to this
23 subsection shall be distributed pursuant to section 12-284.03.

24 E. At the commencement of each action for annulment, dissolution of
25 marriage, legal separation, maternity or paternity, the petitioner shall pay
26 to the clerk of the court the initial case filing fee for the action provided
27 in subsection A of this section. At the time of filing a response, the
28 respondent shall pay to the clerk of the court the subsequent case filing fee
29 for the action provided in subsection A of this section. In each county
30 where the superior court has established a conciliation court, the petitioner
31 and respondent shall each pay to the clerk a sixty-five dollar fee. The
32 monies from the additional fee shall be used to carry out the purposes of the
33 conciliation court pursuant to title 25, chapter 3, article 7.

34 F. In garnishment matters:

35 1. A fee shall not be charged for filing an affidavit seeking only the
36 release of exempt wages.

37 2. A fee shall not be charged for filing a garnishee's answer, for
38 filing a judgment against the garnishee or for the issuance or return of
39 process incident to such a judgment.

40 3. For any contest relating to or any controversion of a garnishment
41 matter, unless the contesting party has paid an appearance fee in that cause,
42 the required appearance fee shall be paid, except that the garnishee shall
43 not pay a clerk's fee.

44 G. A person who is cited to appear and defend an order to show cause
45 shall not be charged an appearance fee. The person may stipulate to or

1 consent to the entry of an order without the payment of an appearance
2 fee. An appearance fee shall be paid if the person is present in person or
3 by an attorney and does one or more of the following:

- 4 1. Requests affirmative relief or counterrelief.
- 5 2. Attacks the sufficiency of process or the proceedings.
- 6 3. Takes other affirmative action.

7 H. A petitioner shall not be charged a fee for requesting an order of
8 protection pursuant to section 13-3602 or an injunction against harassment
9 pursuant to section 12-1809. A defendant shall not be charged an answer fee
10 in an order of protection action if the defendant requests a hearing pursuant
11 to section 13-3602, subsection I or in an injunction against harassment
12 action if the defendant requests a hearing pursuant to section 12-1809,
13 subsection H.

14 I. A person who files a registrar's order pursuant to section
15 32-1166.06 shall not be charged a fee.

16 J. The clerk of the court shall charge and collect a forty-six dollar
17 filing fee for a petition for emancipation of a minor filed pursuant to
18 chapter 15 of this title. Each month the clerk shall transmit the monies the
19 clerk collects pursuant to this subsection to the county treasurer for
20 deposit in the emancipation administrative costs fund established by section
21 12-2456.

22 K. Except for monies that are collected pursuant to subsections C, D,
23 E and J of this section, the clerk of the superior court shall transmit
24 monthly to the county treasurer all monies collected pursuant to this section
25 for distribution or deposit pursuant to section 12-284.03.

26 Sec. 6. Section 12-305, Arizona Revised Statutes, is amended to read:
27 12-305. County law library fund

28 A. A county law library fund is established in each county consisting
29 of monies received pursuant to section 12-284.03, SUBSECTION A, paragraph 4
30 AND SECTION 41-178.

31 B. The county law library fund shall be used for the purposes of
32 enhancing legal research capabilities in the county law library and shall be
33 under the direction of a judge of the superior court in the county. The
34 board of supervisors shall disburse monies from the fund only on the order of
35 the presiding judge of the superior court.

36 C. If the balance in the county law library fund exceeds three
37 thousand dollars at the close of the fiscal year, the board of supervisors by
38 resolution adopted by vote of the members, and with the concurrence of the
39 judge of the superior court in the county, may transfer the surplus of the
40 fund in excess of three thousand dollars to the A building repair fund.
41 Monies so transferred shall be expended only for additions, alterations and
42 repairs to the courthouse. The expenditures are subject to title 41,
43 chapter 23.

1 Sec. 7. Section 33-502, Arizona Revised Statutes, is amended to read:
2 33-502. Authentication of authority of officer

3 A. If the notarial act is performed by any of the persons described in
4 section 33-501, paragraphs 1 to THROUGH 4, inclusive, other than a person
5 authorized to perform notarial acts by the laws or regulations of a foreign
6 country, the signature, rank, or title and serial number, if any, of the
7 person are sufficient proof of the authority of a holder of that rank or
8 title to perform the act. Further proof of his authority is not required.

9 B. If the notarial act is performed by a person authorized by the laws
10 or regulations of a foreign ~~county~~ COUNTRY to perform the act, there is
11 sufficient proof of the authority of that person to act if:

12 1. Either a foreign service officer of the United States resident in
13 the country in which the act is performed or a diplomatic or consular officer
14 of the foreign country resident in the United States certifies that a person
15 holding that office is authorized to perform the act, or

16 2. The official seal of the person performing the notarial act is
17 affixed to the document, or

18 3. The title and indication of authority to perform notarial acts of
19 the person appears either in a digest of foreign law or in a list customarily
20 used as a source of such information.

21 C. If the notarial act is performed by a person other than one
22 described in subsections A and B, there is sufficient proof of the authority
23 of that person to act if ~~the clerk of a court of record in the place in which~~
24 ~~the notarial act is performed~~ SECRETARY OF STATE certifies to the official
25 character of that person and to his authority to perform the notarial act.

26 D. The signature and title of the person performing the act are prima
27 facie evidence that he is a person with the designated title and that the
28 signature is genuine.

29 Sec. 8. Section 36-3002, Arizona Revised Statutes, is amended to read:
30 36-3002. Domestic violence shelter fund; purpose

31 A. The domestic violence shelter fund is established consisting of
32 monies received pursuant to section 12-284.03, SUBSECTION A, paragraph 2 AND
33 SECTION 41-178. The program administrator shall administer the fund for the
34 purposes prescribed in this section.

35 B. The department of economic security, after full consultation with a
36 statewide coalition against domestic violence, shall establish program
37 priorities for the fund. Subject to legislative appropriation, the
38 department shall expend monies in the fund to provide financial assistance to
39 shelters for victims of domestic violence through contracts for shelter
40 services.

41 C. Monies in the fund do not revert to the state general fund.

42 Sec. 9. Section 38-233, Arizona Revised Statutes, is amended to read:
43 38-233. Filing oaths of record

44 A. The official oaths of state elective officers shall be filed of
45 record in the office of the secretary of state. The official oaths of all

1 other state officers and employees shall be filed of record in the office of
2 the employing state board, commission or agency.

3 B. The official oaths of elective county and elective precinct
4 officers shall be filed of record in the office of the county recorder,
5 except the oath of the recorder, which shall be filed with the clerk of the
6 board of supervisors. The official oaths of notaries public shall be
7 endorsed upon their bond and filed with the ~~clerk of the superior court in~~
8 ~~the county to which they are appointed~~ SECRETARY OF STATE. The official
9 oaths of all other county and precinct officers and employees shall be filed
10 of record in the office of the employing county or precinct board, commission
11 or agency.

12 C. The official oaths of all city, town or municipal corporation
13 officers or employees shall be filed of record in the respective office of
14 the employing board, commission or agency of the cities, towns and municipal
15 corporations.

16 D. The official oaths of all officers and employees of all school
17 districts shall be filed of record in the school district office.

18 E. The official oaths of all officers and employees of each public
19 educational institution except school districts shall be filed of record in
20 the respective offices of the public educational institutions.

21 F. The official oath or affirmation required to be filed of record
22 shall be maintained as an official record throughout the person's term,
23 appointment or employment plus a period of time to be determined pursuant to
24 sections 41-1347 and 41-1351.

25 Sec. 10. Section 38-810, Arizona Revised Statutes, is amended to read:

26 38-810. Contributions

27 A. Each member shall contribute to the fund an amount equal to seven
28 per cent of the member's gross salary. Contributions of members shall be
29 made by payroll deductions. Every member is deemed to consent to these
30 deductions. Payment of a member's compensation, less these payroll
31 deductions, constitutes a full and complete discharge and satisfaction of all
32 claims and demands by the member relating to remuneration for the member's
33 services rendered during the period covered by the payment, except with
34 respect to the benefits provided under the plan.

35 B. The fund manager's office shall be credited monthly with monies
36 collected pursuant to section 12-119.01, subsection B, paragraph 2, section
37 12-120.31, subsection D, paragraph 2, ~~and~~ section 12-284.03, subsection A,
38 paragraph 6 AND SECTION 41-178. The monies credited to the fund pursuant to
39 this subsection shall be deposited in the fund on a monthly basis, and there
40 shall be a complete accounting of the determination of these monies deposited
41 in the fund.

42 C. As determined by actuarial valuations performed by the plan's
43 actuary, each employer shall make level per cent compensation contributions
44 sufficient under the actuarial valuation to meet both the normal cost plus
45 the actuarially determined amount required to amortize the unfunded accrued

1 liability over, beginning July 1, 2005, a rolling period of at least twenty
2 and not more than thirty years that is established by the fund manager taking
3 into account the recommendation of the plan's actuary, except that, beginning
4 with fiscal year 2006-2007 ~~and each year thereafter~~, the employer
5 contribution rate shall not be less than ten per cent of salary. The monies
6 deposited in the fund pursuant to subsection B of this section shall be used
7 to reduce the contributions required of state and county employers only.
8 Employers that entered the system under a joinder agreement shall also
9 contribute an amount equal to the unfunded accrued liability for that
10 employer. The unfunded liability for each new employer shall be actuarially
11 determined by the plan's actuary as of the effective date of participation of
12 each employer and shall be payable on the effective date of participation.
13 The minimum employer contribution that is paid and that is in excess of the
14 normal cost plus the actuarially determined amount required to amortize the
15 unfunded accrued liability as calculated pursuant to this subsection shall be
16 used to reduce future employer contribution increases and shall not be used
17 to pay for an increase in benefits that are otherwise payable to members.
18 The fund manager shall separately account for these monies in the fund.
19 After the close of any fiscal year, if the plan's actuary determines that the
20 actuarial valuation of the fund contains excess valuation assets and is more
21 than one hundred per cent funded, the fund manager shall account for fifty
22 per cent of the excess valuation assets in a stabilization reserve account.
23 After the close of any fiscal year, if the plan's actuary determines that the
24 actuarial valuation of the fund has a valuation asset deficiency and an
25 unfunded actuarial accrued liability, the fund manager shall use any
26 valuation assets in the stabilization reserve account, to the extent
27 available, to limit the decline in the fund's funding ratio to not more than
28 two per cent.

29 D. The department of administration and the treasurer of each county
30 and participating city and town shall transfer to the fund manager the
31 contributions provided for in subsections A and C of this section within ten
32 working days after each payroll date. The state, county treasurers and
33 clerks of the superior court shall transfer the monies credited under
34 subsection B of this section to the fund manager on or before the fifteenth
35 day of each calendar month that follows the month in which the court fees
36 were collected. Contributions and monies credited under subsection B of this
37 section and transferred after these dates shall include a penalty equal to
38 ten per cent per annum, compounded annually, for each day that the
39 contributions or monies credited under subsection B of this section are late.
40 Delinquent payments due under this subsection, together with interest charges
41 as provided in this subsection and court costs, may be recovered by action in
42 a court of competent jurisdiction against the person or persons responsible
43 for the payments or, at the request of the fund manager, may be deducted from
44 any other monies including excise revenue taxes payable to a political
45 subdivision by any department or agency of this state. If requested by the

1 fund manager, the state, county treasurers or clerks of the superior court
2 shall transfer the monies credited under subsection B of this section, in an
3 amount determined by the fund manager, directly to the qualified governmental
4 excess benefit arrangement established pursuant to section 38-803.01.

5 E. The employer shall pay the member contributions required of members
6 on account of compensation earned after August 7, 1985. The paid
7 contributions shall be treated as employer contributions for the purpose of
8 determining tax treatment under the United States internal revenue code. The
9 effective date of the employer payment shall not be before the date the
10 retirement plan has received notification from the United States internal
11 revenue service that pursuant to section 414(h) of the United States internal
12 revenue code the member contributions paid will not be included in gross
13 income for income tax purposes until the paid contributions are distributed
14 by refund or pension payments. The employer shall pay the member
15 contributions from monies established and available in the retirement
16 deduction account, which monies would otherwise have been designated as
17 member contributions and paid to the retirement plan. Member contributions
18 paid pursuant to this subsection shall be treated for all other purposes, in
19 the same manner and to the same extent, as member contributions made before
20 August 7, 1985.

21 Sec. 11. Section 41-126, Arizona Revised Statutes, is amended to read:

22 41-126. Fees; expedited services

23 A. The secretary of state shall receive the following fees:

24 1. Making a copy of any document on file in his office, no more than
25 ten cents for each page or partial page.

26 2. Filing and recording each ~~official-bond~~ APPLICATION TO BECOME A
27 NOTARY PUBLIC and transmitting a commission for a notary public, no more than
28 twenty-five dollars.

29 3. Filing an application for registration or renewal of the
30 registration of a trademark or recording an assignment of a trademark,
31 fifteen dollars.

32 4. Filing an application for registration or renewal of the
33 registration of a trade name or recording an assignment of a trade name, no
34 more than ten dollars.

35 5. Issuing a certificate of registration of a trademark or a trade
36 name, no more than three dollars.

37 6. Filing, as required by the uniform commercial code:

38 (a) A financing statement, no more than three dollars.

39 (b) An amendment to a financing statement, no more than three dollars.

40 (c) An assignment, no more than three dollars.

41 (d) A continuation statement, no more than three dollars.

42 (e) A statement of release, no more than two dollars.

43 (f) A termination statement, no more than two dollars.

44 7. Issuing a certificate as provided in section 44-3146 naming a
45 particular debtor, no more than six dollars.

1 8. Making a copy of a filed financing statement, no more than fifty
2 cents per page.

3 9. Certifying a copy of a writing specified in paragraphs 6, 7 and 8
4 of this subsection, no more than three dollars.

5 10. Filing, recording or certifying any other document not specified in
6 this section, no more than three dollars.

7 11. FILING THE OATH AND BOND OF NOTARY PUBLIC, EIGHTEEN DOLLARS.

8 12. ISSUING A CERTIFICATE AS TO OFFICIAL CAPACITY OF A NOTARY PUBLIC
9 AND AFFIXING A SEAL TO THE CERTIFICATE, EIGHTEEN DOLLARS.

10 B. The secretary of state shall provide for and establish an expedited
11 service for the processing of requests, applications, filings and searches as
12 follows:

13 1. The expedited processing shall be a priority same day service
14 effected in a fast and efficient manner.

15 2. A fee shall be charged for expedited services. This fee shall not
16 exceed twenty-five dollars per service and shall be in addition to any other
17 fees provided by law, including those set forth in subsection A of this
18 section.

19 C. The secretary of state shall adopt rules necessary to carry out
20 subsection B of this section.

21 Sec. 12. Title 41, chapter 1, article 4, Arizona Revised Statutes, is
22 amended by adding section 41-178, to read:

23 41-178. Distribution of notary bond fees

24 THE STATE TREASURER SHALL TRANSMIT, DISTRIBUTE OR DEPOSIT ALL MONIES
25 RECEIVED PURSUANT TO SECTION 41-126, SUBSECTION A, PARAGRAPHS 11 AND 12 AS
26 FOLLOWS:

27 1. 1.31 PER CENT FOR DEPOSIT IN THE DRUG AND GANG ENFORCEMENT ACCOUNT
28 ESTABLISHED BY SECTION 41-2402 FOR THE PURPOSES OF SECTION 41-2402,
29 SUBSECTION H.

30 2. 8.87 PER CENT FOR DEPOSIT IN THE DOMESTIC VIOLENCE SHELTER FUND
31 ESTABLISHED BY SECTION 36-3002.

32 3. 1.93 PER CENT FOR DEPOSIT IN THE CHILD ABUSE PREVENTION FUND
33 ESTABLISHED BY SECTION 8-550.01.

34 4. 7.62 PER CENT FOR PROPORTIONAL DEPOSIT IN EACH COUNTY'S LAW LIBRARY
35 FUND ESTABLISHED BY SECTION 12-305, BASED ON THE NUMBER OF NOTARIES
36 COMMISSIONED PER COUNTY.

37 5. 0.35 PER CENT FOR DEPOSIT IN THE ALTERNATIVE DISPUTE RESOLUTION
38 FUND ESTABLISHED BY SECTION 12-135.

39 6. 23.79 PER CENT FOR DEPOSIT IN THE ELECTED OFFICIALS' RETIREMENT
40 PLAN FUND ESTABLISHED BY SECTION 38-802, WHICH SHALL BE DISTRIBUTED TO THE
41 FUND PURSUANT TO SECTION 38-810.

42 7. 17.07 PER CENT FOR DEPOSIT IN THE JUDICIAL COLLECTION ENHANCEMENT
43 FUND ESTABLISHED BY SECTION 12-113.

44 8. 0.26 PER CENT FOR DEPOSIT IN THE CONFIDENTIAL INTERMEDIARY AND
45 FIDUCIARY FUND ESTABLISHED BY SECTION 8-135.

1 9. 31.29 PER CENT FOR DEPOSIT IN THE NOTARY BOND FUND ESTABLISHED BY
2 SECTION 41-314.

3 10. 7.51 PER CENT SHALL BE DISTRIBUTED TO THE COUNTY WHERE THE NOTARY
4 IS COMMISSIONED IN THE SAME MANNER AS THE SEVEN DOLLARS OF THE TIME PAYMENT
5 FEE PRESCRIBED BY SECTION 12-116, SUBSECTION B.

6 Sec. 13. Section 41-312, Arizona Revised Statutes, is amended to read:

7 41-312. Appointment; term; oath and bond

8 A. The secretary of state may appoint notaries public in each county
9 to hold office for four years who shall have jurisdiction in the county in
10 which they reside and in which they are appointed. Acknowledgments of
11 documents may be taken and executed and oaths may be administered by a notary
12 public in any county of the state although the commission is issued to the
13 notary public in and for another county.

14 B. The secretary of state shall ~~transmit the commission of the person~~
15 ~~appointed as notary public to the clerk of the superior court in the county~~
16 ~~for which the notary was appointed. The clerk shall~~ give notice of the
17 appointment to the person appointed who shall take, within twenty days after
18 receiving such notice, the oath prescribed by law and give a bond ~~to the~~
19 ~~state~~, with sureties approved by the ~~clerk~~ STATE, in an amount prescribed by
20 the secretary of state and file it with the ~~clerk~~ SECRETARY OF STATE. Upon
21 filing the official oath and bond the ~~clerk~~ SECRETARY OF STATE shall deliver
22 the commission to such person ~~and give notice to the secretary of state of~~
23 ~~the time and filing of the oath and bond.~~

24 C. A notary public is a public officer commissioned by this state and
25 the following apply without regard to whether the notary public's employer or
26 any other person has paid the fees and costs for the commissioning of the
27 notary public, including costs for the official seal and journals:

28 1. A notary public's official seal and commission and any journal that
29 contains only public record entries remain the property of the notary public.

30 2. A notary public may perform notarizations outside the workplace of
31 the notary's employer except during those times normally designated as the
32 notary public's hours of duty for that employer. All fees received by a
33 notary public for notarial services provided while not on duty remain the
34 property of the notary public.

35 3. An employer of a notary public shall not limit the notary public's
36 services to customers or other persons designated by the employer.

37 D. A notary public shall continue to serve until the notary public's
38 commission expires, the notary public resigns the commission, the notary
39 public dies or the secretary of state revokes the commission. An employer
40 may not cancel the notary bond or notary commission of any notary public who
41 is an employee and who leaves that employment.

42 E. A notary public shall comply with all of the following:

43 1. Be at least eighteen years of age.

44 2. Be a citizen or a legal permanent resident of the United States.

1 3. Be a resident of this state for income tax purposes and claim the
2 individual's residence in this state as the individual's primary residence on
3 state and federal tax returns.

4 4. Except as provided in section 41-330, subsection A, paragraph 2,
5 never have been convicted of a felony.

6 5. Keep as a reference a manual that is approved by the secretary of
7 state AND that describes the duties, authority and ethical responsibilities
8 of notaries public.

9 F. An applicant for appointment and commission as a notary public
10 shall complete an application form prescribed by the secretary of
11 state. Except for the applicant's name and business address, all information
12 on the application is confidential and may not be disclosed to any person
13 other than the applicant, the applicant's personal representative or an
14 employee or officer of the federal, state or local government who is acting
15 in an official capacity. The secretary of state shall use the information
16 contained on the application only for carrying out the purposes of this
17 article.

18 G. The state or any of its political subdivisions may pay the fees and
19 costs for the commissioning of a notary public who is an employee of this
20 state or any of its political subdivisions and who performs notarial services
21 in the course of the notary public's employment or for the convenience of
22 public employees.

23 Sec. 14. Title 41, chapter 2, article 2, Arizona Revised Statutes, is
24 amended by adding section 41-314, to read:

25 41-314. Notary bond fund; purpose; exemption

26 A. THE NOTARY BOND FUND IS ESTABLISHED CONSISTING OF MONIES RECEIVED
27 PURSUANT TO SECTION 41-178.

28 B. THE SECRETARY OF STATE SHALL ADMINISTER THE FUND AND SPEND MONIES
29 IN THE FUND IN ORDER TO DEFRAY THE COST OF THE SECRETARY OF STATE'S OFFICE
30 ASSUMING THE RESPONSIBILITIES ASSOCIATED WITH THE PROCESSING AND
31 ADMINISTRATION OF NOTARY BONDS.

32 C. ON NOTICE FROM THE SECRETARY OF STATE, THE STATE TREASURER SHALL
33 INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND
34 MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

35 D. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND EXEMPT FROM
36 THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

37 Sec. 15. Section 41-315, Arizona Revised Statutes, is amended to read:

38 41-315. Bond

39 A. A person who has been commissioned as a notary shall file WITH THE
40 SECRETARY OF STATE an oath of office and a bond in an amount prescribed by
41 the secretary of state ~~with the clerk of the superior court in the notary's~~
42 ~~county of residence~~ in order for the commission to become effective. A
43 licensed surety shall execute the bond. The bond shall be effective for four
44 years beginning on the commission's effective date.

1 B. The ~~clerk of the superior court~~ SECRETARY OF STATE shall not accept
2 any bond that was issued more than sixty days before or more than thirty days
3 after the date on which the secretary of state commissions a notary.

4 Sec. 16. Section 41-317, Arizona Revised Statutes, is amended to read:

5 41-317. Delivering notarial seal, notarial journal and records;
6 failure to comply; storing records; certified copies

7 A. On the resignation or revocation of a notarial commission or the
8 death of a notary, the NOTARY SEAL, notarial journal and records, except
9 those records of notarial acts that are not public record, shall be delivered
10 by certified mail or other means providing a receipt to the ~~office of the~~
11 ~~county recorder in the notary's county of residence~~ SECRETARY OF STATE. If a
12 notary does not apply for reappointment, on expiration of the notarial
13 commission the NOTARY SEAL, journal and records shall be delivered to the
14 ~~county recorder~~ SECRETARY OF STATE as required for resignation under this
15 subsection. A notary who neglects for three months thereafter to deposit
16 such records, SEAL and papers, or the personal representative of a deceased
17 notary who neglects for three months after his appointment to deposit such
18 records, SEAL and papers, shall forfeit to the state not less than fifty nor
19 more than five hundred dollars.

20 B. While a notary public is commissioned, a notary public shall keep
21 all records and journals of the notary's acts for at least five years after
22 the date the notarial act was performed. On receipt of the records and
23 journals from a notary public who no longer is commissioned, the ~~county~~
24 ~~recorder~~ SECRETARY OF STATE shall keep all records and journals of notaries
25 public deposited in the ~~county recorder's~~ SECRETARY OF STATE'S office for
26 five years and shall give certified copies thereof when required, and for the
27 copy certifications the ~~county recorder~~ SECRETARY OF STATE shall receive the
28 same fees as are by law allowed to notaries public. The copy certifications
29 shall be as valid and effectual as if given by a notary public.

30 Sec. 17. Section 41-322, Arizona Revised Statutes, is amended to read:

31 41-322. Authentication of authority of officer for foreign
32 notarizations

33 A. If a notarial act is performed by any of the persons described in
34 section 33-501, paragraphs 1 through 4, other than a person authorized to
35 perform notarial acts by the laws or regulations of a foreign country, the
36 signature, rank or title and serial number, if any, of the person is
37 sufficient proof of the authority of the person to perform the act. Further
38 proof of the person's authority is not required.

39 B. If a notarial act is performed by a person authorized by the laws
40 or regulations of a foreign country to perform the act, any of the following
41 is sufficient proof of the authority of the person to perform the act:

42 1. Certification by a foreign service officer of the United States
43 resident in the country in which the notarial act is performed or a
44 diplomatic or consular officer of the foreign country resident in the United

1 States that a person who holds the office that the person holds is authorized
2 to perform notarial acts.

3 2. Affixation to the notarized document of the official seal of the
4 person performing the notarial act.

5 3. The appearance either in a digest of foreign law or in a list that
6 is customarily used as a source of such information of the title and the
7 indication of authority to perform notarial acts of the person.

8 C. If a notarial act is performed by a person other than a person
9 described in subsections A and B of this section, sufficient proof of the
10 authority of the person to act exists if the ~~clerk of a court of record in~~
11 ~~the place in which the notarial act is performed~~ SECRETARY OF STATE certifies
12 to the official character of the person and to the person's authority to
13 perform the notarial act.

14 D. The signature and title of a person performing a notarial act are
15 prima facie evidence that the person is a person with the designated title
16 and that the signature is genuine.

17 Sec. 18. Section 41-330, Arizona Revised Statutes, is amended to read:

18 41-330. Grounds for refusal, revocation or suspension of
19 commission

20 A. The secretary of state may refuse to appoint any person as a notary
21 public or may revoke or suspend the commission of any notary public for any
22 of the following reasons:

23 1. Substantial and material misstatement or omission in the
24 application for a notary public commission that is submitted to the secretary
25 of state.

26 2. Conviction of a felony unless restored to civil rights, or of a
27 lesser offense involving moral turpitude or of a nature that is incompatible
28 with the duties of a notary public. A conviction after a plea of no contest
29 is deemed to be a conviction for purposes of this paragraph.

30 3. Revocation, suspension, restriction or denial of a professional
31 license if that action was for misconduct, dishonesty or any cause that
32 substantially relates to the duties or responsibilities of a notary public.

33 4. Failure to discharge fully and faithfully any of the duties or
34 responsibilities required of a notary public.

35 5. The use of false or misleading advertising in which the notary
36 public has represented that the notary public has duties, rights or
37 privileges that the notary public does not possess by law.

38 6. Charging more than the fees authorized by statute or rule.

39 7. The commission of any act involving dishonesty, fraud or deceit
40 with the intent to substantially benefit the notary public or another person
41 or to substantially injure another person.

42 8. Failure to complete the acknowledgment or jurat at the time the
43 notary's signature and seal are affixed to the document.

44 9. Failure to administer the oath or affirmation required at the time
45 of performing a jurat for an individual.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42
- 43
- 44
- 45

3
4
5
6

7

8
9
10

11
12

13
14
15

16
17
18
19
20

21

22

23
2425
26

27
28
29
30
31
32

33
34

35
36

37
38

39

40
41
42

43
44
45

1 appointment of judges pro tempore or the establishment of additional
2 divisions of the courts only for the purposes of this section, enhancing
3 defense and probation services, including treatment, and funding the drug
4 testing program.

5 4. Up to thirty per cent to fund programs by county sheriffs and the
6 state department of corrections, as approved by the commission, to enhance
7 drug offender treatment programs and the jail operations and facilities
8 available to detain and incarcerate drug offenders and members of criminal
9 street gangs as defined in section 13-105.

10 5. Up to thirty per cent to fund programs and agencies, as approved by
11 the commission, to enhance the integration of criminal justice records
12 relating to drug and gang offenders and their related criminal activity.

13 C. Before any monies are expended from the account, the criminal
14 justice commission shall submit to the joint legislative budget committee a
15 plan of proposed expenditures from the account and the anticipated fiscal and
16 operational impact of those expenditures on all state and local agencies.

17 D. Any state agency that receives monies allocated from this account
18 shall not include such monies as part of its continuation budget base for the
19 purpose of requesting appropriations for the following fiscal year.

20 E. All the monies allocated from this account shall be dedicated
21 solely to the purpose of enhancing efforts to deter, investigate, prosecute,
22 adjudicate and punish drug and gang and related criminal offenders, except
23 those monies allocated pursuant to subsection H of this section.

24 F. Notwithstanding the limitations prescribed in subsection B of this
25 section, any federal monies or matching state monies in the drug and gang
26 enforcement account may only be allocated by the commission pursuant to a
27 plan approved by the federal government.

28 G. The auditor general shall annually perform a full and complete
29 audit of the fund or the commission shall annually contract with an
30 accounting firm to perform the audit and deliver a report to the governor and
31 the legislature. The audit shall be charged to the drug and gang enforcement
32 account.

33 H. A resource center fund is established consisting of monies received
34 pursuant to section 12-284.03, subsection A, paragraph 1, SECTION 41-178 and
35 all monies received from public or private gifts, grants or other sources,
36 excluding federal monies and monies to be passed through to other entities,
37 to be used solely for the purpose of funding the Arizona drug and gang
38 prevention resource center. Monies in the fund are subject to legislative
39 appropriation. Any monies unexpended or unencumbered on June 30 of each year
40 shall not be subsequently expended or encumbered unless reappropriated. No
41 monies in the drug and gang enforcement account except those received
42 pursuant to this subsection shall be used to fund the Arizona drug and gang
43 prevention resource center. Monies that are received by the center pursuant
44 to this subsection are subject to the reporting requirements prescribed in
45 section 41-617.01.

1 Sec. 21. Requirements for enactment; two-thirds vote

2 Pursuant to article IX, section 22, Constitution of Arizona, this act
3 is effective only on the affirmative vote of at least two-thirds of the
4 members of each house of the legislature and is effective immediately on the
5 signature of the governor or, if the governor vetoes this act, on the
6 subsequent affirmative vote of at least three-fourths of the members of each
7 house of the legislature.

APPROVED BY THE GOVERNOR APRIL 28, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2008.